

Application No. 10/649,614
Page 6

REMARKS

Claims 11, 18 and 19 have been amended to correct some typographical errors and to change the language to the Examiner's preferred language as set forth in 1. of the last Office Action. However, it is noted that the original language in claim 11 conforms to language used and accepted for many years in the practice of Patent Law. The changes are merely made to comply with preferred language expressed by the Examiner.

The rejection of claim 19 under 35 U.S.C. § 112, second paragraph, as indefinite is respectfully traversed for the following reasons.

The lack of antecedent basis rejection has become the most abused rejection these days without regard to its basic rationale. More specifically, this type of rejection arose when it became unclear whether certain structure, inferentially claimed, was intended to be included in the scope of the claims. An example might be the recitation of "a motor having an output shaft connected to the generator...." This type of language leaves it unclear whether the generator is to be included as part of the claim.

On the other hand, this rejection has absolutely no place where the recitation of the structure of the claim inherently defines the antecedent basis. For example, the recitation of "a tubular member, the outer surface of which is coated with" does not give rise to a lack of antecedent

Application No. 10/649,614
Page 7

basis for the reference to "the outer surface" because, by definition, a tubular member has an inner and outer surface.

Claim 19 is dependent on claim 1, which itself specifies the "assembling means for assembly the slat like members in predetermined configuration, including a number of pegs and holes, whereby...." Under 35 U.S.C. § 112, paragraph six, the structure called for by the assembling means must be resolved by reference to the specification. Furthermore, there could be no assembling of the slat-like members by means of pegs **unless the pegs have an exposed length with which they are able to enter into the hole of the slat-like member to be connected.** Under these circumstances, this rejection is completely misplaced in the instant case and reconsideration thereof is respectfully requested. See also *Bose Corp. v. JB, Inc.*, (Fed. Cir. 2001), 274 F3d 1354, 61 USPQ 1216.

The rejection of claims 1-8, 13-17 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Glassman ('667) is also respectfully traversed for the following reasons.

An obvious rejection requires an analysis of the reference relied upon and what it discloses to the person skilled in the art. It is not legally appropriate to reconstruct the reference and its teachings by suggesting that what may be "desired by the user" when there is no indication why a user may have such desires. In fact, the analysis of the '667 Patent in the rejection is legally and factually flawed because no

Application No. 10/649,614
Page 8

person skilled in the art would, without the suggestion in the present application, modify the express teachings of the reference to arrive at the present invention. Applicant agrees that member B-6 has several holes. However, it makes no sense to suggest that only three pegs be inserted into three holes while the symmetrically opposite holes are left void. See, for example, Figures 3, 5 and 6.

The attempted reading of the "moisture-retaining means" in the rejection of claims 3-5 and 7-8 is merely an arbitrary hindsight attempt to find a basis for a totally unwarranted rejection, in violation of the mandated interpretation of means clauses under 35 U.S.C. § 112, paragraph 6. In fact, this rejection is a clear distortion of the plain meaning of the words in these claims.

Finally, applicant also takes issue with the Examiner's position on page 5, first full paragraph, that the "excerpts of the Glassman reference chosen by the applicant to argue this point are mere suggestions by the inventor on how to use the device but in no way limit other manipulations." Suffice it to point out that these "other manipulations" are merely the result of a pure and simple hindsight approach for which there is absolutely no suggestion in the patent if one considers the very purpose of the patented invention.

With respect to claim 16, it should be noted that this claim recites "the depth of the holes in a given slot-like member is smaller than the width of the slot-like member." It is only necessary to look at Figure 4 of

Application No. 10/649,614
Page 9

the '667 Patent to realize that such an arrangement would obliterate the very purpose of the patent.

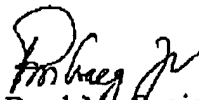
In view of the foregoing amendments and remarks, reconsideration of the rejections and early Notice of Allowance of all the claims are respectfully solicited.

In the event this Amendment does not place the application in condition for allowance, entry thereof for purposes of appeal is also respectfully requested.

Finally, attorney for applicant wishes to thank the Examiner(s) in charge of this application for the interview courteously accorded on September 22, 2004, at which time this Proposed Amendment was discussed together with the inadequacies of the reference summarized in the Remarks herein.

Though no additional fee is believed required, it is respectfully requested that any shortage of fees be charged to the Deposit Account of Paul M. Craig, Jr., Account No. 03-3560.

Respectfully submitted,



Paul M. Craig, Jr.
Reg. No. 16,823
207 Quaint Acres Drive
Silver Spring, MD 20904
Telephone: (301) 622-3980
Facsimile: (301) 622-6546
e-mail: pmcraig@starpower.net

PMC/mks

**This Page is Inserted by IFW Indexing and Scanning
Operations and is not part of the Official Record**

BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ BLACK BORDERS
- ☐ IMAGE CUT OFF AT TOP, BOTTOM OR SIDES
- ☐ FADED TEXT OR DRAWING
- ☐ BLURRED OR ILLEGIBLE TEXT OR DRAWING
- ☐ SKEWED/SLANTED IMAGES
- ☐ COLOR OR BLACK AND WHITE PHOTOGRAPHS
- ☐ GRAY SCALE DOCUMENTS
- ☒ LINES OR MARKS ON ORIGINAL DOCUMENT
- ☐ REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY
- ☐ OTHER: _____

IMAGES ARE BEST AVAILABLE COPY.

As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.